



**THE ATTORNEY GENERAL  
OF TEXAS**

Gerald C. Mann

~~XXXXXXXXXXXX~~  
PRICE DANIEL

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Tom DeBerry, Member  
State Board of Control  
Austin, Texas

Opinion No. O-4182

Re: Purchase of Pickup truck

Dear Sir:

Your letter of October 31 asks this department whether a coupe pickup truck may be purchased by you at a price exceeding \$750.00 (including the trade-in value of the used car) under the provisions of Section 2, Subsection 14, General Provisions, Senate Bill 423, Acts Regular Session 47th Legislature, reading as follows:

"(14) Purchase of passenger cars. No moneys herein appropriated shall be spent for the purchase of a passenger car in excess of Seven Hundred Fifty (\$750.00) Dollars, including the trade-in value of the used car, and this limited price shall cover a car equipped with bumpers and extra rim or wheel but not an extra casing or tube."

You advise that the pickup truck is constructed exactly like a passenger coupe with the exception that it has a small truck body behind the seat, rather than the regular deck lid. You also advise that the Chevrolet truck data book, as well as the automobile dealer's market record, classify the pickup as a commercial motor vehicle.

Under the above rider, it is our opinion that the question whether the automobile involved is a "passenger car" is to be determined by considering its design and construction. If it is designed and constructed by the manufacturer for the primary use of carrying passengers, it is a "passenger car", and within the rider; if it is designed and constructed for the primary purpose of transporting property, it is not within the rider quoted.

The pickup coupe described, we believe, is clearly designed and constructed primarily for use in transporting property; hence it is not within the rider.

We assume that the vehicle is to be used for the purpose for which it is designed. We do not mean to suggest that

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the above rider may be evaded by purchasing a vehicle designed and constructed primarily for the purpose of transporting property, with the purpose to use the vehicle exclusively for the transportation of passengers.

We return to you herewith the enclosures appended to your letter of request.

Yours very truly

APPROVED: NOV 8, 1941  
/s/ Grover Sellers  
FIRST ASSISTANT  
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

By /s/ R. W. Fairchild

R. W. Fairchild, Assistant

RWF:WFS:wb

APPROVED: OPINION COMMITTEE  
BY: BWB, Chairman